

**INTRODUCTION OF THE "ELECTRIC POWER COMPETITION AND CONSUMER
CHOICE ACT OF 1997"**
**STATEMENT OF REPRESENTATIVE EDWARD J. MARKEY (D-MA) THURSDAY, JUNE
19, 1997**

Today I am introducing legislation aimed at promoting competition in the electric utility industry. This legislation seeks to create federal incentives for removal of existing state-level barriers to full competition and consumer choice in electricity generation.

In 1982, the Energy Policy Act included an amendment I authored, along with Representative Carlos Moorhead (R-CA), which opened up wholesale competition by mandating that utilities provide others with open, nondiscriminatory access to their transmission lines so that wholesale power purchasers could get the freedom to choose their power suppliers. Following the policy direction initiated by the Markey-Moorhead amendment, the Federal Energy Regulatory Commission (FERC) in 1995 approved a rule opening up wholesale transmission of electric power for the first time on a nationwide basis, an action which FERC estimates will result in at least \$3.8 to \$5.4 billion in cost savings for consumers each year. Several states, including Massachusetts, California, Rhode Island, and Pennsylvania, have decided to take the next logical step and move to retail competition in electricity -- which could lead to even larger potential savings for the consumer.

Unfortunately, many state-level retail competition initiatives are either moving forward very slowly or not at all due to opposition from the entrenched utility monopolies. The bill I am introducing today creates a package of legislative "carrots and sticks" aimed at urging the states forward to adopt competition plans that will benefit both consumers and the environment. I do not impose a federal retail competition mandate upon the states that threatens federal pre-emption unless they order retail competition by a date certain. Instead, my bill adopts a more flexible approach which provides strong incentives for states to open up to retail competition by offering exemptions from certain existing federal regulations, such as the mandatory power purchase provisions of PURPA (which requires utilities to buy power from independent power producers at their avoided cost), or the Public Utility Holding Company Act of 1935 (PUHCA), which restricts the activities of multistate utility holding companies. Essentially, we are telling the utilities that if you eat some competition "spinach," we'll give you a very sweet deregulatory dessert. And the spinach will be good for you and very good for your customers.

Under this approach, the states could freely choose whether to open up retail competition. Utilities in states which choose not to allow retail competition would be free to retain the status quo, but they would remain fully subject to PUHCA and PURPA and they would be barred from offering competitive services outside their traditional service territory that aren't opened to competition within their service territory. On the other hand, utilities in those states which approved retail competition would be freed from the federal mandates in PUHCA and PURPA, which would no longer be necessary in a competitive environment. Such utilities would also be free to offer competitive services out of region. States would decide how much of a utilities uneconomic assets would be charged to ratepayers, and what would have to be picked up by utility shareholders.

In order to preserve the important public benefits associated with environmentally sound renewable energy sources, energy conservation programs, service to low-income consumers, and worker transition and retraining programs, my legislation also links PURPA and PUHCA relief to state certification that non-bypassable charges have been adopted to fund investments in each of these critical areas. I believe

this is necessary to assure that our national goals of promoting increased energy independence, ensuring diversity of energy supply, more efficient use of energy resources, and universal service to all Americans continue to be advanced in a restructured marketplace. Moreover, I believe that a temporary charge should be imposed to help assure that adequate provision is made for utility workers whose jobs may be affected by the industry's restructuring.

In addition, my legislation addresses the concern that electric utility mergers, utility market power, or utility diversification might harm electricity consumers or undermine the emergence of a fully competitive market. Already, the accelerating pace of utility mergers has raised the specter of giant "mega-utilities" that could control markets and effectively bar new entrants from vying for customers. Comprehensive electricity restructuring legislation must address the potential for anticompetitive actions to undermine the objective of creating a market in which there are many sellers and many buyers.. My bill would do this by giving FERC and the States enhanced authority to deal with utility mergers, market power issues, diversification, and interaffiliate transactions.

Finally, we must assure that electricity restructuring does not result in adverse environmental effects, such as increases in air pollution, as own older power plants seek to gain a competitive advantage because they happen to own "dirtier" facilities that aren't subject to the more expensive environmental controls that are imposed on new power plants. My legislation contains a new provision which would direct the President or his designee to issue rules to prevent any person from obtaining a competitive advantage by selling power from facilities that are not subject to the pollution controls imposed on new power plants.

In addition, my bill contains several other new provisions aimed at protecting consumers. It will help assure electric utility consumers get the information they need to make informed purchasing decisions and assure protection of their privacy. I have also added new provisions which establish an Electric Reliability Council to serve as an industry self-regulatory organization, overseen by the FERC, to assure the continued reliability of the nation's electric power supply in a restructured electricity industry. In addition, I have also added language which would create a federal-state board to review universal service requirements in a restructured electricity industry in order to assure that all regions of the nation continue to receive electricity services. Finally, I have added provisions which would further promote increased reliance on environmentally-sustainable renewable energy technologies by creating a renewable energy credit trading system.

Over 100 years ago, Thomas Edison predicted that electric power would become so economical that "only rich people will be able to afford candles." While his invention has transformed our way of life, today we are challenged to transform the industry Edison created in order to make electricity more affordable to consumers and make its generation less harmful to the environment. We now know that electricity generation is no longer a natural monopoly. The challenge is whether we can de-monopolize this industry in a fashion which preserves our commitment to environmentally sustainable renewable energy sources, reduces pollution, improves energy efficiency, preserves universal service, and maintains the highest level of reliability. I believe that we can, and I look forward to working with Chairman Schaefer and my colleagues on the Energy and Power Subcommittee and on the full Committee on a bipartisan basis to enact such legislation into law during the 105th Congress.